



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

November 19, 2012

Director of Operations
XTO Energy, Inc.
395 Airport Road
Indiana, PA 15701-8914

Re: Permit Requirements for Underground Injection Control Program
When using Diesel Fuels in Hydraulic Fracturing Fluids

To whom it may concern:

The Energy Policy Act of 2005 exempted hydraulic fracturing (fracking) operations from the regulation of the Underground Injection Control (UIC) program *except when diesel fuels are used*. The Act, however, does not provide a clear description for "diesel fuels," and thus there has been some confusion about when a permit is required. The Environmental Protection Agency (EPA) has now developed the *draft* "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels," which provides for a specific description for "diesel fuels," as well as technical recommendations and an overview of requirements for permitting under the UIC Class II program. This draft guidance was posted on May 10, 2012, and EPA accepted comments on the guidance until July 9, 2012. The draft guidance can be found at the following website.

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Under the draft guidance, there are six substances (products, compounds, etc.) with corresponding Chemical Abstracts Service (CAS) registry numbers which are included in the diesel fuels description. The register numbers are CAS 68334-30-5, CAS68476-34-6, CAS 68476-30-2, CAS 68476-31-3, CAS 8008-20-6, and CAS 68410-00-4. If any constituent with one of these CAS numbers is used in any amount for hydraulic fracturing, the operation will require a permit through the UIC program.

The UIC program may be implemented by a state that has acquired primacy, or by EPA when the state has not been granted primacy. In EPA Region 3, West Virginia, Maryland and Delaware have acquired primacy and implement the UIC program. While this guidance is intended for EPA permit writers, primacy states may find the recommendations valuable and choose to utilize them when implementing the state's existing regulatory framework. EPA directly implements the UIC program in Pennsylvania, Virginia, and the District of Columbia. In these jurisdictions, an owner or operator of an oil or gas production well who proposes to use a fracking fluid which meets the "diesel fuels" description, is required to obtain a UIC permit from EPA Region 3.



The draft guidance provides detailed information on the UIC permitting process. Among other things, a UIC permit requires specific construction standards for an injection well and that the well passes a mechanical integrity test to ensure absence of fluid movement between geologic zones. A comprehensive "area of review" is also required to eliminate the possibility of fluids migrating upward through improperly plugged abandoned wells or fractures. The owner/operator must also provide a "financial responsibility" demonstration for funding necessary to properly plug and abandon the well. For more specific information on UIC permit requirements, please refer to the guidance.

This letter is EPA's formal notification that oil and gas operators within Pennsylvania and Virginia who propose to use diesel in their fracking operations, of the requirement to obtain a UIC permit through EPA Region 3. Failure to do so is a violation of the UIC program and may result in an enforcement action. If you have any questions concerning this issue or the UIC permitting process, please contact Steve Platt of my staff at (215) 814-5464.

Sincerely,

Karen D. Johnson, Chief
Ground Water & Enforcement Branch
Office of Drinking Water & Source Water Protection

Cc: Mr. Scott Perry, Pennsylvania Department of Environmental Protection
Director, Virginia Division of Gas and Oil





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 28, 2012

Mr. Doug Kepler
Vice President
Seneca Resources Corporation
5800 Corporate Boulevard, Suite 300
Pittsburgh, PA 15237

Re: Permit Requirements for Underground Injection Control Program
When using Diesel Fuels in Hydraulic Fracturing Fluids

Dear Mr. Kepler:

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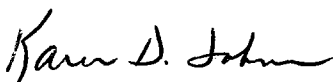
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Karen D. Johnson, Chief
Ground Water & Enforcement Branch
Office of Drinking Water & Source Water Protection

Cc: Mr. Scott Perry, Pennsylvania Department of Environmental Protection
Director, Virginia Division of Gas and Oil





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 28, 2012

Mr. Mark Pease
Vice President of Domestic Operations
Anadarko Petroleum Corporation
1201 Lake Robbins Drive
The Woodlands, TX 77380

Re: Permit Requirements for Underground Injection Control Program
When using Diesel Fuels in Hydraulic Fracturing Fluids

Dear Mr. Pease:

The Energy Policy Act of 2005 exempted hydraulic fracturing (fracking) operations from the regulation of the Underground Injection Control (UIC) program *except when diesel fuels are used*. The Act, however, does not provide a clear description for "diesel fuels," and thus there has been some confusion about when a permit is required. The Environmental Protection Agency (EPA) has now developed the *draft* "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels," which provides for a specific description for "diesel fuels," as well as technical recommendations and an overview of requirements for permitting under the UIC class II program. This draft guidance was posted on May 10, 2012, and EPA will be accepting comments on the guidance until July 9, 2012. The draft guidance can be found at the following website.

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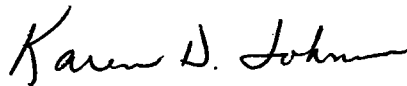
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Karen D. Johnson, Chief
Ground Water & Enforcement Branch
Office of Drinking Water & Source Water Protection

Cc: Mr. Scott Perry, Pennsylvania Department of Environmental Protection
Director, Virginia Division of Gas and Oil





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 28, 2012

Mr. John Mork, Chief Executive Officer
Energy Corporation of America
501 56th Street East
Charleston, WV 25304

Re: Permit Requirements for Underground Injection Control Program
When using Diesel Fuels in Hydraulic Fracturing Fluids

Dear Mr. Mork:

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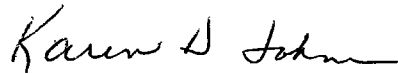
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